

Packers and Stockyards Programs



*Ensuring a fair, open, and competitive
marketing environment for
livestock, meat, and poultry.*

- *Competition*
- *Trade Practices*
- *Financial Protection*

FY 2000 Highlights

Market Highlights

Fiscal year 2000 saw the continuation of trends operating in 1999 in the livestock and poultry industries. Beef production in FY 2000 surpassed the record set the previous year. Pork production in FY 2000 was about 2 percent below the record production of 1999. Broiler production increased by 3 percent from its FY 1999 record level. Total exports of red meat and poultry increased 3 percent, driven mainly by increases in beef and broiler exports. Red meat production efficiency continues to increase. Steer and heifer carcass weights set another record in FY 2000. The hog breeding herd in FY 2000 was 4 percent below the 1999 breeding herd, yet production fell only about 2 percent, due to higher marketing weights and increases in the number of pigs per litter and the number of litters per year.

Despite record production, demand for red meat was strong and prices for cattle and hogs were up during the year. Fed cattle prices averaged nearly \$70/cwt, compared to about \$65/cwt in FY 1999, feeder cattle prices averaged about \$85/cwt, \$10 more than in FY 1999, and hog prices averaged about \$45/cwt, more than \$10/cwt higher than in FY 1999. The higher prices, combined with continued low feed costs, meant that cattle and hog producers enjoyed higher returns than in recent years.

The structure of the industry continued to evolve in FY 2000. Six of the Nation's largest meat and poultry firms announced plans to launch a business-to-business Web marketplace for buyers and sellers of red meat and poultry products. Several other firms joined the electronic marketplace for red meat and poultry. eMerge Interactive emerged as an Internet-based cattle trading company. The pork industry continued to become more vertically integrated as Smithfield Foods, a major pork packer, acquired Murphy Family Farms to become the world's largest hog producer.

Investigations

GIPSA's P&S Programs is comprised of Competition, Trade Practices, and Financial Protection units. In FY 2000, these units undertook 1,898 investigations, and closed 1,701, representing a 59% increase over FY 99. The individual breakdown of FY 2000 investigations closed, including those closed within one year, FY 2000 follows:

FY 2000: Investigations Closed by P&S Programs (Total Number of Investigations: 1,898)			
<i>Unit</i>	<i>Total Number Closed</i>	<i>Number Closed in 1 Year</i>	<i>Percent Closed in 1 Year</i>
Competition	26	14	54%
Financial	783	755	96.4%
Trade Practice	892	871	97.6%
Totals	1,701	1,640	96.4%

Note: Competition investigations are normally the largest and most complex investigations conducted by this agency. The time required to conduct the investigation and analyze the data is often more than one year. And differences in total number closed and cases closed may be explained by carry-overs from the previous fiscal year.

During FY 2000, GIPSA further strengthened its investigations by enhancing relationships with the Office of the General Counsel, Department of Justice, and other agencies. GIPSA formalized a team approach with OGC attorneys to ensure that all investigative, economic, and legal issues are considered prior to embarking on complex investigations; implemented strategies, including assessments of investigative procedures, with the Department of Justice and Federal Trade Commission; and will be implementing a formalized investigation review process to develop effective investigation plans and facilitate successful litigation.

Recruitment

Recruitment has continued to be a high priority for P&S Programs since completion of the program's reorganization in July 1999. During the reorganization, 35 employees retired or resigned rather than relocate. In the past 2 years, P&S Programs hired 68 new employees, 57 of whom are located in regional offices. GIPSA actively sought the expertise necessary to conduct investigations of anticompetitive practices. Recruiting staff with economic and legal expertise was a high priority in FY 2000. A recruiting team was established to help meet hiring goals and to ensure that those hired reflect the diverse cultures represented in the United States. As a result of these efforts, 28 economists and 6 legal specialists were added to the regional offices and Washington headquarters to strengthen investigations of anticompetitive behavior. P&S Programs finished FY 2000 with 176 full-time employees. Recruitment to meet additional staffing needs will continue to be a high priority in FY 2001.

GAO Report

The GAO conducted an audit of GIPSA's investigations of competitive practices. The report identified several recommendations to improve GIPSA's investigations of anticompetitive practices under the P&S Act. The GAO recommends that GIPSA economists and Office of the General Counsel (OGC) attorneys develop a teamwork approach for investigations. The report also discusses the number and role of OGC attorneys in GIPSA's investigations, as well as the role of GIPSA's own legal specialists. Finally, the report recommends that GIPSA promote competition through information activities. Overall, GIPSA concurs with the report recommendations. As discussed above under "Outlook 2001," GIPSA is already taking steps to address GAO's concerns and appropriately implement GAO's recommendations.

Technical Training

In June 2000, Packers and Stockyards Programs completed its FY2000 Business Trade Practices and Investigative Interviewing training. The primary focus of the training was to improve field employees' knowledge of programs, policy, and procedures relating to financial and business trade practices and to improve their knowledge and skills will continue to be a high priority in FY 2001.

**Strengthened
Investigations of
Anticompetitive Practices**

As part of its restructuring plan, P&S incorporated economic, statistical, and legal expertise into investigations at the field office level, thereby increasing the program's efficiency and effectiveness in investigating anticompetitive practices and in enforcing trade practice and payment protection provisions of the P&S Act. In FY 2000, P&S continued to recruit economists and legal specialists for its field staff, now having 28 economists and 6 attorneys on board. Additional funding continues to be sought to investigate competitive behavior in meat packing and to address concerns in the poultry industry.

**Issued Orders
and Assessed Penalties**

During FY 2000, 17 decisions and orders were issued against 25 individuals and firms for violating the P&S Act. The orders included more than \$117,000 in civil penalties and 24 cease-and-desist provisions involving unfair trade practices or anticompetitive activities. Small farms are among the principal beneficiaries of these enforcement actions.

Corrective Actions

Voluntary. Most violations of the P&S Act found in investigations initiated by GIPSA are corrected voluntarily by the individuals or firms when the violation is brought to their attention. Except for the most serious cases, taking disciplinary action to correct a violation is the last resort after substantial effort has been made to obtain voluntary compliance.

During FY 2000, dealers and market agencies found to be insolvent voluntarily corrected or reduced their insolvency by \$6.6 million. Upon finding shortages in the custodial account of market agencies that sell livestock on a commission basis, 81 market agencies voluntarily restored \$5.9 million to their custodial accounts. Livestock producers and poultry growers often ask GIPSA's help in settling disputes that arise in marketing their products. In such transactions, the Agency often acts as an intermediary by bringing the parties together to solve the disputes.

Disciplinary. Formal disciplinary action is necessary when GIPSA is unable to obtain voluntary compliance. During FY 2000, 17 administrative or justice complaints were issued in order to bring subject firms into compliance with the P&S Act. USDA issued 13 administrative decisions and orders against 21 individuals and firms for violating the Act. Four justice decisions and orders, including one consent agreement, were issued against 4 individuals and firms for violating the Act. The following is a list of violations of the P&S Act alleged in complaints issued and/or decisions rendered in FY 2000:

- failure to pay for poultry;
- failure to pay promptly for poultry;
- misrepresenting the weight and price of livestock;
- failure to pay for livestock;
- issuing insufficient checks to sellers of livestock;
- failure to pay promptly for livestock;
- failure to notify sellers of a change in method used to calculate payment basis;
- engaging in unfair practices that subjected poultry growers to undue or unreasonable prejudices or disadvantages;
- shortage in custodial or trust account;
- misusing funds in custodial or trust account;
- insolvency (current liabilities exceeded current assets); and
- operating without required bond.

Overview of Livestock Industry

The following table provides an overview of the livestock industry during FY 2000 and GIPSA's involvement in it.

Fiscal Year 2000	
Investigations	1,965
Market Agencies/Dealers Registered	6,195
Stockyards Posted	1,318
Slaughtering and Processing Packers Subject to the P&S Act (estimated)	6,000
Poultry Operations Subject to the P&S Act	205

The wholesale value of livestock, meat, and poultry products produced by firms subject to the P&S Act was approximately \$142 billion in FY 2000.

Statistical Report

GIPSA prepared a statistical report on the meatpacking industry covering reporting year 1998. The report is a comprehensive source for data on industry concentration, plant size, volume of packer feeding, packer financial performance, number of animals purchased by source of supply (public market versus direct), and method of procurement. Most of the data are reported by type of animal and/or State or geographic region. The report includes data on slaughtering packers; market agencies buying or selling livestock on commission, including auction markets and selling agencies at terminal stockyards; and livestock dealers buying and selling livestock for their own accounts.

The report shows that the number of livestock packers reporting to GIPSA (those purchasing more than \$500,000 of livestock for slaughter per year) has fallen over time. In 1990, 497 firms operating 623 plants reported to GIPSA. In 1998, the number of reporting firms had fallen to 279, and the number of plants had fallen to 372. The following table shows this trend in more detail.

Number of reporting packers, all species				
Year	Single-plant firms	Multi-plant firms	Total firms	Total Plants
1990	454	43	497	623
1991	428	40	468	587
1992	388	49	437	569
1993	355	50	405	534
1994	323	49	372	500
1995	315	45	360	487
1996	311	37	348	478
1997	291	40	331	443
1998	247	32	279	372

The report details packers' use of public and nonpublic markets. Public markets include terminals and auctions; nonpublic markets include all other sources of livestock. Overall, beef packers obtained less than 15 percent of slaughter cattle, and less than 5 percent of steers and heifers, in public markets. The four largest beef packers procured a smaller percentage of their slaughter requirements through public markets than any other group of purchasers. Use of public markets varies regionally. Only 0.6 percent of steers and heifers were bought in public markets in Texas and Oklahoma, while more than 70 percent were bought in public markets in the southern Atlantic coast States. The majority of non-fed cattle (cows and bulls) were purchased in public markets.

Hog packers use public markets even less than cattle packers do. The top 20 packers use public markets for a little more than 1 percent of their procurement and, overall, hog packers purchased about 3 percent of their needs through public markets. There also is much less regional variation in use of public markets for hog procurement. Use of public markets ranged from less than 1 percent in the South Plains and Mountain States to about 7 percent in the northern Atlantic coast States.

Packer use of public markets, 1998		
	Percent of total slaughter	
	<u>Cattle</u>	<u>Hogs</u>
4 largest packers	4.8	1.0
20 largest packers	8.6	1.3
All packers	13.8	3.2

The report also provides details about livestock sold through public markets. Livestock sold through public markets may be used for slaughter, further feeding, dairy production, or other purposes. The total number of cattle and calves sold through public markets for all purposes declined from 42 million head in 1990 to 38 million head in 1998. The number of hogs and pigs sold through public markets declined from about 19 million in 1990 to less than 9 million in 1997, but rose to 11 million in 1998. The total number of public markets (terminal and auction markets) in the United States declined from 1,618 in 1990 to 1,267 in 1999.

Clear Title

Nineteen States have central filing systems that have been certified by the USDA as meeting the requirements of Section 1324 of the Food Security Act of 1985. Fifteen of those States received certification in 1986 and 1987. Minnesota was the most recent State to receive certification—in 1993. A few States request that additional products be added to their list of approved farm products from time to time. States establish central filing systems to enable buyers to learn about lien notices against farm products.

Rapid Response Teams

GIPSA has developed Rapid Response teams to address or investigate potential violations of the P&S Act. These teams have been deployed to address several potentially serious situations across the Nation since July 1999. For example, in July 1999, teams were sent to Sioux Falls, Brookings, and Mitchell, South Dakota, when that State's mandatory livestock price reporting law took effect. In September 1999, teams were sent to Kirksville, Marshall, Maryville, and Mexico, Missouri, in response to livestock producers' concerns about packer behavior when Missouri's new mandatory livestock price reporting law took effect on August 28, 1999. In both of these cases, swift action by the Rapid Response teams enhanced communication between GIPSA, the State governments, producers, and the packing industry. In February 2000, in Paxinos, Pennsylvania, a packer ceased operations owing approximately \$175,000 for livestock. An immediate investigation by a Rapid Response team resulted in sellers receiving payment in full, without further delay, and without incurring any litigation expenses to collect the amounts owed. Rapid Response teams also were in Mississippi in February to respond to poultry growers' concerns of unfair treatment under the P&S Act.

The teams investigated complaints made by poultry growers about changes to their grow-out contracts. The investigation into potential violations of the Act was initiated in response to numerous complaints made to GIPSA's Violations Hotline. In April 2000, two Rapid Response teams were sent in response to the announcement that Smithfield Food, Inc. intended to purchase a Dubuque packing plant from Farmland Foods, Inc. The team assessed the potential regional impacts of this purchase on hog producers. The Rapid Response teams are another way that the Department of Agriculture is demonstrating its commitment to maintaining a fair market for U.S. farm products and helping assure a healthy future for family farmers and ranchers.

Dialogue With Industry

GIPSA maintains an active dialogue with industry participants to sustain current knowledge of issues and concerns. Lines of communication are open from the grassroots to the industry association and policy-making levels. During investigations, GIPSA personnel make formal and informal contacts with people in all segments of the livestock, poultry, and meat industries. This allows for sharing of perspectives about specific complaints as well as general concerns. GIPSA maintains a toll-free hotline (1-800-998-3447) as another avenue for producers and the public to voice their concerns and record their complaints about competitive, trade practice, or financial issues that may warrant investigation. GIPSA personnel regularly attend and participate in meetings of industry associations, at both the national and State levels.

In FY 2000, GIPSA participated in a series of three regional summits with State Attorneys General, leaders of State agriculture departments, and representatives from USDA. The meetings were held in Des Moines, IA, Denver, CO, and Atlanta, GA, in February and April 2000. The summits provided an opportunity for the respective governmental bodies to focus on the challenges associated with the changes facing agriculture. Concentration, mergers in agribusiness, marketing contracts, packers' ownership of livestock, environmental issues affecting agriculture, and mandatory price reporting were among the topics of discussion.

More than 450 people participated in GIPSA's "Visions for the Millennium Conference" on structural changes facing livestock and grain markets in the 21st century. The conference was held May 9 and 10, 2000, in Kansas City, Missouri, and was well attended by farmers, ranchers, industry people, academia, and Federal and State representatives. The conference celebrated the accomplishments of American agriculture over the past 100 years, discussed current forces for change, and debated the merits of innovation and structural changes. Various speakers addressed the major challenges and opportunities that farmers and ranchers have faced and will face as a result of changes in technology, international forces, consumer demand, concentration, consolidations and mergers, vertical coordination, changing marketing institutions, and other forces. The final session was a debate on concentration hosted by Deputy Secretary Rominger. Many participants requested that the conference become an annual event for producers and growers to understand the dynamics of change affecting their livelihood.

Competition

Overview

One of GIPSA's major responsibilities under the P&S Act is to ensure open, competitive marketing conditions for livestock and meat. Various producer organizations have voiced concerns about enforcement in this area. To maintain a competitive and fair marketing system, buyers of livestock must actively compete in the procurement of livestock. GIPSA continually monitors the livestock industry for anticompetitive practices through various investigative activities and other tools. In its regulatory role, GIPSA seeks to enhance competition in several ways. GIPSA investigates potential anticompetitive practices, and seeks to achieve compliance with the P&S Act. When violations are uncovered, GIPSA may seek voluntary compliance or pursue administrative complaints as appropriate and warranted by the evidence. GIPSA also promulgates rules that provide guidance to the regulated industry on policy interpretations under the P&S Act. GIPSA engages in outreach activities to inform interested parties, particularly livestock and poultry producers and the regulated entities, of P&S enforcement efforts and rulemaking activities and to stimulate public dialogue on important competition issues.

Anticompetitive Arrangements

GIPSA places a high priority on investigating complaints and further developing information received about the potential failure of livestock dealers, market agencies, or packers to compete for the purchase of livestock. During FY 2000, GIPSA conducted investigations involving livestock dealers, market agencies, packer buyers, and slaughtering packers regarding potential anticompetitive practices in the purchase of livestock.

GIPSA has finished its investigation of fed steer and heifer procurement in the Texas Panhandle. Descriptive and graphical analyses were completed and portions were reported to the public in February 1998. Purchase and slaughter patterns were examined to identify potential occurrences of aberrant or unusual procurement practices. USDA's publicly reported Market News prices were assessed to examine whether they accurately reflected packer procurement transactions. GIPSA's investigation into the procurement of cattle in the Texas Panhandle region found substantial variation in the use of methods of cattle procurement.

In a cooperative agreement with GIPSA, researchers at Iowa State University and the University of Nebraska conducted econometric and statistical analyses of the Texas Panhandle data to identify relationships between spot market prices and non-spot purchases. They found that the statistical association found in other studies – an increase in non-spot purchases was associated with lower spot prices – was in the Texas Panhandle data as well. Although the econometric analysis did not test for a causal relationship between the two, it did test and find limited support for the statistical association being, at least in part, a consequence of feeders' marketing choices. Nevertheless, the analysis did find that cattle

sold under non-spot methods tended to receive higher prices than spot cattle sold in the spot market. The effects of non-spot procurement of livestock remain a very high priority for the Agency, and we will continue to investigate the practice and take regulatory and legal steps when violations of the P&S Act are indicated.

Concentration and Industry Structure

Concentration in cattle and hog slaughter has increased a great deal since 1985. For steers and heifers, four-firm concentration rose 31 percentage points to 81 percent in 1999. Concentration has remained fairly constant since 1993. Four-firm concentration in hog procurement has risen more than 24 percentage points since 1985, to 56 percent in 1999, increasing steadily through 1996, and remaining stable since then. Four-firm concentration in sheep and lamb slaughter rose rapidly in the mid-1980s, from 51 percent in 1985 to 77 percent in 1988, but has fallen over the last decade to 68 percent in 1999. The number of plants and number of head slaughtered by the top four firms, both in absolute number and as a percentage of total sheep and lamb slaughter, have fallen between 1988 and 1999.

Trends in four-firm concentration are shown in the following table.

Four-Firm Concentration in Meat Packing
Reporting Years 1980-99

Year	Cattle ¹	Steers and heifers	Cows and bulls	Hogs	Sheep and lambs
<u>Percent of total commercial slaughter</u>					
1980	28	36	10	34	56
1981	31	40	10	33	53
1982	32	41	9	36	44
1983	36	47	10	29	44
1984	37	50	11	35	49
1985	39	50	17	32	51
1986	42	55	18	33	54
1987	54	67	20	37	75
1988	57	70	18	34	77
1989	57	70	18	34	74
1990	59	72	20	40	70
1991	61	75	20	44	72
1992	64	78	24	44	71
1993	67	81	25	43	73
1994	69	82	25	45	73
1995	69	81	28	46	72
1996	66	79	29	55	73
1997	68	80	31	54	70
1998	70	80	33	56	68
1999	70	81	32	56	68

¹ Includes steers, heifers, cows, and bulls.
Note: Figures for years 1980-90 are based on firms' fiscal years as reported to GIPSA. Figures for 1991-99 are based on calendar year federally inspected slaughter.

Livestock Procurement Practices

P&S engages in broad-based investigations of livestock procurement practices to maintain current knowledge of the marketing system and to determine compliance with the P&S Act. In FY 2000, for example, P&S Programs investigated the procurement practices of the major pork packers, focusing on marketing arrangements and forward contracts. In the process of conducting its investigation, GIPSA identified several deficiencies in packer recordkeeping as required under section 401 of the P&S Act. In investigations of major beef packers, GIPSA identified recordkeeping deficiencies as well. As a result, GIPSA is promulgating a rule to clarify recordkeeping requirements for livestock procurement transactions.

Failure To Notify Pork Producers

GIPSA filed a complaint against Excel Corp., Wichita, Kansas, alleging that Excel violated section 202 of the P&S Act, which prohibits, among other things, unfair and deceptive practices by packers. It is alleged that Excel failed to disclose to producers a change in the calculation of lean percent for hogs purchased on a carcass merit basis. The complaint further alleges that as a result of this change in formula, Excel paid lower prices for the majority of hogs purchased on a carcass merit basis. The alleged actions by Excel resulted in farmers being paid \$1.8 million less in transactions involving more than 19,900 lots of hogs that were slaughtered at Excel's three hog plants. GIPSA is seeking an appropriate cease and desist order and a civil penalty of \$6 million. An administrative hearing commenced on July 18, 2000, in Wichita, Kansas. The oral hearing reconvened on September 25, 2000, in Chicago, Illinois. Excel completed the presentation of its case-in-chief. The hearing was continued to a future date for rebuttal, if any, and GIPSA's sanction testimony.

Failure To Bid on or Purchase Cattle

GIPSA filed a complaint against Farmland National Beef Packing Company, L.P., Liberal, Kansas, alleging that the company changed its bidding and buying practices at Callicrate Cattle Company Feedyard, St. Francis, Kansas. The complaint says Farmland failed to make bids on or purchase cattle from Callicrate Feedyard after an article critical of Farmland written by Callicrate Feedyard's sales manager was published in a livestock journal. According to the complaint, Farmland failed to make bids on or purchase cattle from Callicrate Feedyard, while routinely making bids on and purchasing cattle from other similarly situated feedyards located in the same geographic area as Callicrate Feedyard. An administrative hearing is scheduled to begin on March 13, 2001, in Kansas City, Missouri.

Peer Review of Investigations

USDA has committed to conducting peer reviews of major investigations to ensure that the investigators asked the right questions, collected the right data, and conducted appropriate analyses. Peer reviews by objective, qualified reviewers may potentially contribute to GIPSA's plans to strengthen enforcement of anticompetitive behavior in the livestock, meat, and poultry industries.

The peer review of an investigation of major fed-beef packing plants in the Texas Panhandle was completed. GIPSA asked seven distinguished outside authorities to review the Texas Panhandle fed-cattle investigation. The panel conscientiously reviewed GIPSA's Texas Panhandle fed-cattle investigation and made numerous suggestions that will increase the knowledge gained from that investigation, contribute to future analysis of livestock procurement investigations, and enable GIPSA to strengthen its investigative process in general.

Trade Practices

Overview

One of GIPSA's major objectives under the P&S Act is to maintain fair business practices in the marketing and procurement of livestock, meat, and poultry. To ensure fair business practices and to determine if unfair or deceptive practices are occurring, P&S Programs continually conducts trade practice investigations of auction markets, livestock dealers and order buyers, slaughtering packers, meat dealers, brokers and distributors, and poultry processors and dealers.

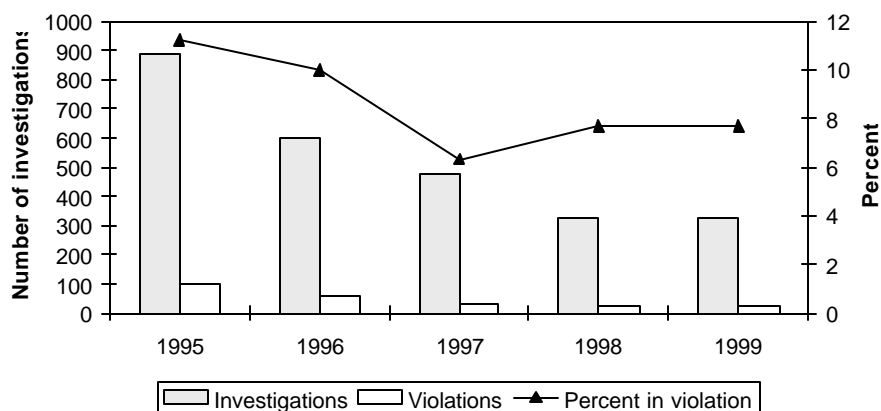
Unfair Practices

Some of GIPSA's unfair practices enforcement efforts are directed at monitoring scale accuracy, and detecting improper and fraudulent use of subject's scales. In most cases, the subject scales are tested semi-annually by State and private testing agencies following standards developed in cooperation with the National Conference on Weights and Measures (NCWM). Test reports are analyzed and tests are periodically supervised to ensure that they accurately reflect the performance of the scales under normal use conditions. GIPSA conducts training schools for test agencies with NCWM National Training Program-certified instructors. Of the scales tested in FY 2000, 96 percent complied with performance requirements. Equipment not found in compliance was adjusted, repaired, replaced, or removed from service.

GIPSA conducts training schools for test agencies with NCWM National Training Program-certified instructors. Since 1988, 28 training schools provided technical instruction to 476 officials from 50 States and the Navajo Nation. Informal instruction is routinely provided upon request to State and private test agencies.

Weighing investigations are critical components of the program to assure accurate weights. During FY 2000, 502 weighing investigations were conducted at livestock auction markets, dealer buying stations, and meat packing and poultry processing plants. Approximately 7 percent of the investigations disclosed false or incorrect weighing, which resulted in corrective action being taken.

Weighing Investigations Livestock, Direct, Poultry and Carcass Checkweighs



False Weighing

USDA regulations require that livestock purchased on a weight basis be accurately weighed and that payment be made on accurate weight. False weights have an immediate and measurable impact on livestock producers' paychecks. During FY 2000, two administrative complaints were issued against five entities for allegedly selling livestock to their customers at more than the true and correct weight.

Contract Poultry Arrangements

During FY 2000, GIPSA investigated the operations of 97 live poultry dealers. Nearly 44 percent of these investigations were the result of complaints received from contract growers. GIPSA is conducting investigations of the various payment terms incorporated into poultry growing arrangements. These investigations are designed to determine whether the contract settlement terms of several live poultry dealers throughout the United States are deceptive or unfair to the growers who grow poultry under these agreements. During FY 2000, the Department of Agriculture and Perdue Farms, Inc., a major poultry processor on the East Coast, entered into a consent agreement to resolve a complaint that was filed in the U.S. District Court of Maryland by the United States Attorney. The complaint alleged that Perdue engaged in unfair and deceptive practices in its dealings with some of its poultry growers. USDA sought injunctive relief against Perdue for its alleged violations of the P&S Act. The parties agreed to a dismissal of the complaint as part of the consent agreement.

Continuing investigations of large tare weight variations have prompted procedural changes by several poultry firms to ensure accurate tare weights of poultry live haul vehicles. Weighing practices were investigated through unannounced checkweighings at 178 poultry complexes in FY 2000.

Livestock Marketing

Fraudulent marketing practices, such as weight and price manipulation, and misrepresentation of livestock's origin and health continue to be concerns within the industry. Emphasis is given to investigating these practices when complaints are received, or when such practices are identified during other investigations. During FY 2000, GIPSA issued an amended administrative complaint alleging a dealer falsified records concerning the disposition of livestock that he resold at an auction market or at a packer and misrepresented to the seller where the livestock was sold and accounted to the seller on falsified weights and prices.

Livestock Procurement Practices

To determine if unfair or deceptive practices in violation of the P&S Act are occurring in the procurement of livestock, GIPSA conducts livestock procurement investigations of livestock dealers, order buyers, and slaughtering packers. These investigations examine the records of these firms for possible violations of the P&S Act, including: price manipulation; weight manipulation of livestock or carcasses; manipulation of carcass grades; commercial bribery; misrepresentation of source, condition, or quality; or other unfair and deceptive practices.

Many hog slaughterers in the United States are using electronic carcass evaluation devices to purchase hogs on a carcass merit basis. GIPSA conducts semiannual investigations at hog slaughtering plants that use these devices to ensure their proper use and accuracy, proper formula application, and correct accounting.

Fraud

Fraudulent transactions are a major concern to GIPSA and to the industry. These activities include collusion between or among dealers, order buyers, market agencies, or packer employees engaging in payoffs and kickback schemes. They also include defrauding purchasers of livestock by causing paper transactions in which the livestock purportedly changes ownership several times with markups in price and/or weight each time before sale to the ultimate buyer. These practices are among the most serious violations of the P&S Act and have the ultimate effect of lowering prices paid to the livestock producer or raising prices paid by the consumer.

Reparations

Any person harmed when a market agency or dealer violates the P&S Act may file a complaint seeking monetary damages. At the beginning of FY 2000, there were 20 docketed reparation actions pending in which the complainants were seeking reparations in the amount of \$498,694. During FY 2000, two dockets were closed. At the end of FY 2000, 18 dockets were pending in which complainants are seeking \$476,844.

Financial Protection

Overview

Financial integrity is a major concern and responsibility of GIPSA to ensure a stable and competitive market for livestock, poultry, and meat. Prompt and full payment for livestock and poultry purchases are a statutory requirement. It is essential if producers are to maintain the cycle of production necessary for a viable market.

Livestock buyers are required to maintain a surety bond to cover their livestock purchase operations. Livestock auction markets must establish and maintain a custodial (trust) account for payment to consignors. A packer and poultry trust, established under the Packers and Stockyards Act, gives livestock and poultry sellers first claim to trust assets in the event of nonpayment.

Financial Investigations

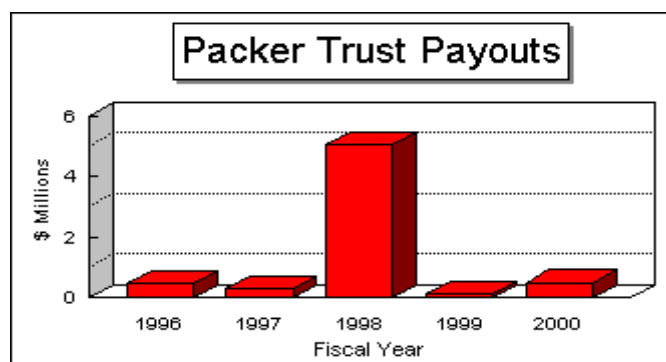
Financial investigations during the year resulted in \$5.9 million being restored to custodial accounts established and maintained by livestock auction markets for the benefit of livestock sellers. Over \$481,000 was recovered by livestock sellers under the packer trust provisions of the Act.

Livestock dealers, market agencies, and packers are required to meet solvency requirements, a critical component of payment protection under the provisions of the Act. During FY 2000, 104 insolvent dealers and market agencies corrected or reduced their insolvency by \$6.7 million. Insolvent packers corrected or reduced their insolvency by \$2.2 million.

Packer Trust

It is important that producers receive timely and full payment for the livestock they market. Payment protection is provided by statutory requirements of full and prompt payment, packer bonding, and packer trust.

Packers also are required to file annual reports of their operations with GIPSA and to maintain a solvent financial condition. The prompt payment provision is a significant element of the financial protection afforded producers under the P&S Act and is an integral part of the packer trust which provides protection to producers who fail to receive payment from meat packers. Since the 1976 amendments to the P&S Act, livestock sellers have been paid \$54.3 million under the statutory trust provisions.



Live Poultry Trust

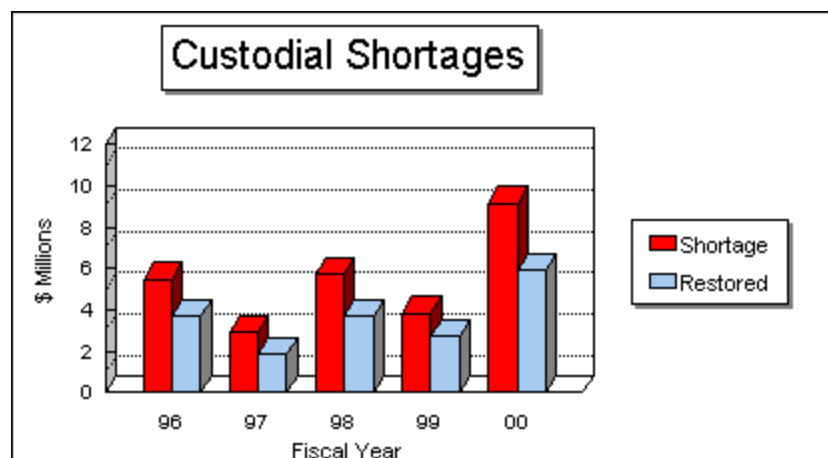
In February 1988, the P&S Act was amended to include a statutory trust provision similar to the packer trust giving payment protection to live poultry growers and sellers. Since the 1988 amendments, live poultry producers have been paid \$7.5 million under the statutory trust provisions.

The poultry trust payouts reflect claims for unpaid purchases of all types of poultry, including broilers, turkeys, and spent fowl. It primarily shows the failure of small regional firms that have ceased operations and failed to pay growers or poultry sellers. It does not accurately portray an economic trend for the industry as a whole but only reflects a sum of the failures of small marginal operations. The national firms are large, completely integrated operations that are relatively stable financially. Any changes that occur are the results of mergers or sales of the total operation and do not usually result in losses to poultry growers or sellers. In FY 2000, one poultry trust complaint was received by GIPSA, resulting in over \$250,000 in payments to live poultry producers.

Custodial

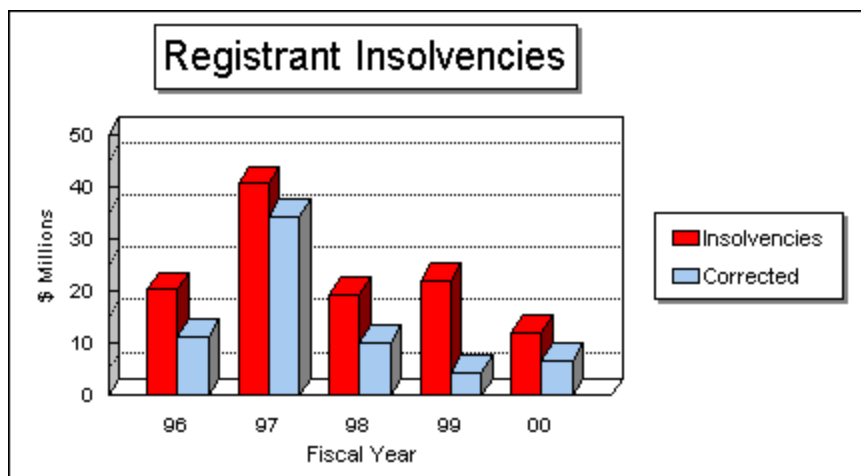
Payment protection for the sellers of livestock is an integral part of the P&S Act and extremely important to GIPSA. To ensure compliance with the financial and payment protection provisions of the Act, GIPSA routinely reviews financial reports and conducts payment practice audits and investigations.

Market agencies that sell livestock on a commission basis are required to establish and maintain a separate bank account for the benefit of livestock sellers called a Custodial Account for Shipper's Proceeds. GIPSA has an ongoing compliance surveillance program designed to regularly audit each of these accounts. During FY 2000, the compliance audits conducted on 374 custodial accounts disclosed that 154 markets had shortages totaling \$9.1 million in their accounts. The audit program resulted in restoring \$5.9 million for the benefit of livestock sellers.



Solvency

Livestock dealers, market agencies, and packers are required to meet solvency requirements, a critical component of payment protection under the P&S Act. In the past 5 fiscal years 1,191 dealers and market agencies found to be insolvent either corrected or reduced their insolvency, in the aggregate, over \$66.9 million as a result of GIPSA compliance activities. Of the 1,191 dealers and market agencies, 570 completely corrected their insolvency. During FY 2000, 192 insolvent dealers and market agencies corrected or reduced their insolvency by \$6.7 million. During FY 1999, insolvent packers corrected or reduced their insolvency by \$2.2 million.



Bonding

The P&S Act and regulations require that each market agency and dealer operating in commerce be registered. To comply, a firm must file an application simultaneously with a surety bond or its equivalent. Packers are not required to be registered. However, slaughtering packers must register each of their employee livestock buyers as a dealer purchasing livestock for slaughter. The following table shows the number of registrants and value of their bonds for the past 3 fiscal years.

Posted Stockyards	1,298	1,377	1,320
Market Agencies/Dealers	6,391	6,434	6,222
Packer Buyers	1,988	2,045	2,039
Value of Bonds (\$ millions)	249	250	242

In FY 2000, 347 claimants recovered \$.5 million out of \$3.2 million in claims filed during the fiscal year against bonds maintained by dealers and market agencies that failed financially. Bond claims of approximately \$80,000 are pending and expected to be paid to claimants.

The 1976 amendment to the P&S Act made provisions for packer bonding as an additional means of payment protection to livestock sellers. All packers purchasing more than \$500,000 worth of livestock annually must be bonded to provide payment protection for livestock purchased not otherwise recovered through the packer trust. The percentage of bond payout to total bond value is consistently less than 1 percent.

